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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/797,599

03/11/2004

Leonard David

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
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EXAMINER

ALLEN, WILLIAM J

ART UNIT

PAPER NUMBER

3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/797,599

Applicant(s)

DAVID, LEONARD

Examiner

William J. Allen

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Paragraph 33 recites the term “mains” in such a way that the meaning of the word is not discernable. Appropriate correction is required.

Claim Objections

Claim 2 objected to because of the following informalities: recites where the terminal “mains” powered.

Claims 4 and 10 objected to because of the following informalities: recites where the term “customised” which should read “customized”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claim 2 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

As noted above, the term “mains” appears in paragraph 33 of the specification; however, it is not clear what Applicant considers as the meaning of “mains”. The description in the specification is not adequate as to reasonably convey to one skilled in the art applicant’s invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

As noted above, it unclear of the meaning of the word “mains” in relation to how the terminal is powered. As best understood by the Examiner, the term “mains” will be interpreted as any power source that can be considered a main power source to the terminal.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1, 5-7, 9, and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Toth (US 20030078793).**

Regarding claims 1 and 9, Toth teaches an establishment customer service system including:

a central processor disposed in the establishment (see at least: 0064, 0105, 0110, Fig. 11);

one or more service terminals in communication with the central processor and disposed in the establishment proximate one or more customer locations of the establishment (see at least: abstract, 0043, 0064)

wherein each terminal is configured to display a menu presenting to the customer goods and/or services vendible by the establishment (Fig. 2-3, 0020-0023, 0034, 0074)

each terminal including a menu item selector (see at least: 0064)

such that actuation of the selector by the customer causes an order signal to be transmitted to the central processor which returns an order confirmation signal, the order signal including information indicative goods and/or services desired by a

customer (see at least: Fig. 2-4, 0073-0078); The Examiner notes that the screen of Figure 4 represents a *confirmation signal*; and

an automated payment device disposed in or adjacent each service terminal, the payment device configured for receiving payment for goods and/or services ordered by the customer and confirmed by the central processor (see at least: Fig. 4-6, 0077-0079);

wherein the ordered goods and/or services are provided to the customer once payment is made (see at least: 0030, 0043, 0092). The Examiner notes that a diner may prepay for various goods/services such as taxi services or movie tickets.

Regarding claims 5-7 and 11-13, Toth teaches:

(5) and (11) *wherein the system monitors the goods and/or services provided to customers and manages establishment stock control* (see at least: 0101). The Examiner notes that predicting needed food quantities constitutes *managing establishment stock control*.

(6) wherein the automated payment device includes an EFTPOS terminal (see at least: 0031, 0079). The Examiner notes that EFTPOS simply refers to electronic funds transfer POS technology (note PTO 892 reference U)

(7) and (12) wherein each terminal is configured to provide customer gaming services and/or display advertising (see at least: 0037-0038, 0087-0089, Fig. 7).

(13) displaying advertising on each service terminal (see at least: 0027, 0083, 0096). The Examiner further notes the display of “specials”.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toth in view of Official Notice.**

Regarding claim 2, Toth teaches all of the above as noted and further teaches wherein the kiosk can be in communication with the server of a wireless network using RF technology (see at least: 0017, 019, 0043, 0106). Toth, however, does not explicitly teach a main power source for the kiosk. The Examiner notes that though it is inherent that the electronic kiosk of Toth have a power source, it is not necessary to have a main power source (i.e. the power source could be a portable battery); however, it is old and well known in the art to provide a main power source for such devices. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Toth to have included a main power source as taught by Official Notice in order to provide a steady primary power source for the kiosks located in the establishment.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toth.

Regarding claim 3, Toth teaches all of the above as noted and teaches the use of a display on the kiosk (see at least: Fig. 1-7, 0064). Toth, however, does not expressly teach where the terminal includes three display screens. Regarding the duplication of parts, *In re Harza* pertains to claims at issue that were directed to a water-tight masonry structure, wherein a water seal of flexible material fills the joints which form between adjacent pours of concrete. The claimed water seal has a “web” which lies in the joint, and a plurality of “ribs” projecting outwardly from each side of the web into one of the adjacent concrete slabs. The prior art disclosed a flexible water stop for preventing passage of water between masses of concrete in the shape of a plus sign (+). Although the reference did not disclose a plurality of ribs, the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. Though the limitation of three displays is not expressly taught by Toth, this aspect, falls under mere duplication of parts. The added displays simply produce a multiplied affect and fail to provide a new and unexpected result stemming from the duplication of the displays. Therefor, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Toth to have included multiple displays on the kiosk because the mere duplication of parts to produce a multiplied affect does not move to patentably distinguish the claimed invention from the cited prior art [see: *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)]. Additionally, the applicant has not persuasively demonstrated the criticality of providing multiple displays versus the apparatus disclosed by Toth.

6. Claims 4, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toth in view of Vadjinia (US 20030216970).

Regarding claims 4 and 10, Toth teaches all of the above as noted and further teaches personalizing content displayed to a customer (see at least: 0112, 0114). Toth, however, does not expressly teach *wherein the menu on each terminal can be customized by a customer to display selected predetermined types of goods and/or services*. Vadjinia teaches a system and method for providing product information to and collecting information from a user of a information display device (i.e. kiosk) in various locations such as a restaurant, grocery store, wine store, etc. (see at least: abstract, 0016, 0069). Vadjinia further teaches *wherein the menu on each terminal can be customized by a customer to display selected predetermined types of goods and/or services* (see at least: 0014, 0052-0054, Fig. 6). The Examiner notes that by rating certain products, the customer is *customizing* the kiosk menu to display certain types of goods (i.e. wines that are fruity, crisp, sweet, etc.), those goods selected by the user rating the products. It would have been obvious to one of ordinary skill in the art at the time of invention to have included *wherein the menu on each terminal can be customized by a customer to display selected predetermined types of goods and/or services* as taught by Vadjinia in order to provide an improved method and apparatus for providing information regarding items to a consumer, receiving information from a customer, and tracking transaction related information and statistics (see at least: Vadjinia, 0007).

Regarding claim 8, Toth teaches all of the above including the use of a restaurant or central server in communication with a local kiosk (see at least: 0064, 0105, 0110, Fig. 11). Toth, however, does not expressly teach *wherein the central processor is in communication with a franchise processor configured for controlling one or more central processors*. Vadjinia teaches *wherein the central processor is in communication with a franchise processor configured for controlling one or more central processors* (see at least: 0026-0027, 0031, Fig. 1 (note #108). It would have been obvious to one of ordinary skill in the art at the time of invention to have included *wherein the central processor is in communication with a franchise processor configured for controlling one or more central processors* as taught by Vadjinia in order to provide an improved method and apparatus for providing information regarding items to a consumer, receiving information from a customer, and tracking transaction related information and statistics (see at least: Vadjinia, 0007).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 20050273345 discloses an In-restaurant automated meal ordering by customers
- US 5845263 discloses an Interactive visual ordering system
- US 6526335 discloses an Automobile personal computer systems
- PTO 892 U discloses EFTPOS Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443.


The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
December 28, 2006


M.A. FADDOL
Acting SPE 3625